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UNITED STATES PATENT AND TRADEMARK OFFICE

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10/018,095	05/01/2002	Richard C. Walker	110273.500US1	4517

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EXAMINER
FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
3629	

NOTIFICATION DATE	DELIVERY MODE
10/10/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/018,095	WALKER, RICHARD C.
	Examiner	Art Unit	
	Michael J. Fisher	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>7/3/07</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-75* is/are pending in the application.

    4a) Of the above claim(s) *1,32,36-73 and 75* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *2-31,33-35 and 74* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of Group II (claims 2-32, 34-36 and 75) in the reply filed on

7/3/07 is acknowledged. Because applicant did not distinctly and specifically point out

the supposed errors in the restriction requirement, the election has been treated as an

election without traverse (MPEP § 818.03(a)).

Claim Objections

There is no claim 30, the examiner did not notice this in the earlier restriction

requirement. Therefore, presently numbered claim 31 will be changed to claim 30, all

subsequent claims will be similarly changed. Any response to this action will require a

clean set of claims properly numbered, so claim 75 is now claim 74, again.

Claims 6,9 and 34 are objected to because of the following informalities: the use

of acronyms without explaining them. In claims 6 and 9 is the acronym "C.O.T.S.", while

the specification defines this term, there must be appropriate definition in the claims. As

to claim 35, the acronyms DES and DET are not defined. Appropriate correction is

required.

Note: For examination purposes, the acronyms "DES" and "DET" will be

assumed to be standard military protocols and therefore, not patentably distinct as they

are not the focus of the instant application and appear to be merely noted as exemplary

of the state of the current art.

The examiner further objects to applicant's non-uniform use of acronyms. For

instance, there is repeatedly a mention of "PFN" and yet, in some claims such as 10, it

is called a "primary focal node", this is confusing and makes it unclear as to whether it is

a different "PFN" or not. While not rising to the level of a rejection under 35 U.S.C.112,

second paragraph, it is confusing and uniformity in use of terms is expected.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 2-31,33-35 and 74 are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete

for omitting essential structural cooperative relationships of elements, such omission

amounting to a gap between the necessary structural connections. See MPEP

§ 2172.01. The omitted structural cooperative relationships are: how exactly the system

can control a living being as they are inherently, not electronic in nature.

Note: For examination purposes, as this limitation is in the alternative, it will not

be treated.

As to claim 4, there is the limitation "...paws..." in line 4. From the context, this

appears to be a misspelling of "pawl", however, as there is previously a mention of living

beings, it will be assumed to be the paw of a living being, it is unclear how the instant

invention can control a living being as they are inherently not electronic in nature.

Note: For examination purposes, as this limitation is in the alternative, it will not

be treated. Further, as the instant application merely claims controlling living beings, a

rejection under 35 U.S.C.101 is not required as this does not explicitly claim a living

being.

As to claim 18, there is no way to understand what is meant by "... pensive or

inefficient driving".

Claim 21 recites the limitation "the matrix" in line 2. There is insufficient

antecedent basis for this limitation in the claim.

Claim 22 recites the limitation "the basis for digital encryption of information" in

line 2. There is insufficient antecedent basis for this limitation in the claim.

As to claim 23, there is no way to ascertain what the claim intends. It has a

"wherein" with no action performed. For instance, "Wherein this programmable.....

performs a function...", no such action exists, thereby making the scope of the claims

unclear and indefinite. As such, this claim cannot be treated on the merits as the

examiner does not understand what is meant to be claimed.

Claims 3,5-17,19,20,22,24-31,33-35 and 74 are rejected as depending from a

rejected claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-22,24-31,33-35 and 74 are rejected under 35 U.S.C. 103(a) as being

unpatentable over US PAT 6,611,201 to Bishop et al. (Bishop).

As to claim 2, Bishop discloses a system that restricts unauthorized access to a

vehicle (title), with sensors recording operations of the vehicle (fig 1), with a memory

storing the operations of the sensors (col 16, lines 40-43), a processor coupled to the

memory (inherent in that it is a computer), at least one communication device (fig 10),

two-way transmission/pager (col 16, lines 37-40), a radio frequency transceiver (fig 1), a

physical connector interface port (fig 8), maintained in a secure manner (built into the

vehicle would make it secure), a multi-tasking, law enforcement device that

communicates with the computer (col 13, lines 20-25), a remote memory (fig 1), a GPS

system (col 4, lines 63-65), at least one two-way communication system including a

security device (to turn off the vehicle's subsystems). Bishop does not specifically name

a "PFN" or "TRAC", however, analogous systems are disclosed (col 16, lines 28-48).

Bishop does not, however, teach using optical light data transmission or a

wireless telephone system. These are merely different mechanisms in communication

and are old and well known, the use of these would be well within the purview of one of

ordinary skill in the art as matters of obvious design choice.

As to claim 3, Bishop discloses an electrical actuating accessory (figs 2(a) and

2(b)), the system uses electricity (figs 2(a) and 2(b) (power source 211)).

As to claim 4, Bishop teaches using power transfer mechanisms (fig 2(d)).

As to claim 5, Bishop teaches a back-up system (1001, "back-up battery").

As to claim 6, the system interfaces with electrical parts (fig 2(c)).

As to claim 7, the system keeps personal records (col 16, lines 40-48) and can

be used for maintenance purposes (col 18, lines 40-46). .

As to claim 8, it would have been obvious to one of ordinary skill in the art to

prohibit transferring devices in an unauthorized manner as the system can be used to

ensure loan repayment and if a device were moved (removed), it could make the

system non-functional and therefore, could not perform its task.

As to claim 9, the devices interface (fig 10) and the entire device is a C.O.T.S. as

the vehicle is not shown to be customized.

As to claims 10 and 11, it would have been obvious to make the invention meet

all applicable laws and regulations to ensure it is a legal system.

As to claim 12, Bishop does not teach using the Internet, however, it would have been obvious to one of ordinary skill in the art to allow the computer in the system to operatively connect with the Internet as the Internet is a global network and this would increase the range of the vehicle.

As to claim 13, it would have been obvious to one of ordinary skill in the art to make the memory secure as the system is shown to be used for dispute resolution (col 16, lines 40-45).

As to claim 14, Bishop teaches a real-time billing collecting mechanism (inherent in that it is used for loan repayment enforcement, col 22, lines 42-49).

As to claim 15, the system is shown to be used to remotely control and/or shut down systems (col 18, lines 40-43), remotely controlling data exchange (inherent in that data is exchanged) representing monetary exchange (col 22, lines 42-49), the system communicates with multiple computers on a network (fig 1), including vehicle location (as previously discussed, the system uses GPS), monitoring equipment for health and safety conditions (inherent in that all cars have an oxygen sensor to ensure that the vehicle is operating in a safe manner).

As to claim 16, Bishop discloses collecting and transmitting machine message data (col 16, lines 45-48), Bishop does not, however, teach compiling the data for a public media. Bishop does, as discussed, teach collecting and transmitting data indicating that the recall notice was received in case of a later dispute, therefore, it would have been obvious to make this information public so the manufacturer could determine if the recall was received and responded to.

As to claim 17, Bishop teaches recording information that could be used in an accident investigation. (As Bishop teaches recording whether the recall notice is received, and since untended recalls (such as to brakes or tires) can result in an accident, this system could be used to determine if the user had received the recall warning and ignored it (thus, reducing the liability of the manufacturer of the recalled product) or never received (thus, increasing the liability of the manufacturer of the recalled product).

As to claim 18, Bishop teaches the sensors recording information on operations of the vehicle (col 1, lines 63-67).

As to claim 19, Bishop does not teach storing information onboard in two places. It would have been obvious to one of ordinary skill in the art to have a back-up storage to ensure the data is saved in case one storage fails.

As to claim 20, the system provides additional controls by off board control system in case of emergency (col 1, lines 57-62).

As to claim 21, Bishop inherently teaches unique electronic addresses for the components as the components are controlled electronically (fig 2(a)), if there were no specific address, the system could not control a specific element.

As to claim 22, Bishop does not teach encrypting the data, however, encrypting sensitive data (such as that collected by law enforcement agencies) is old and well known in the art, therefore, it would have been obvious to one of ordinary skill in the art to encrypt the data, and to have the electronics do the encryption, to secure the data

and keep it from the wrong hands (such as a nefarious person who could tamper with the vehicle's operation).

As to claim 24, Bishop does not specifically teach the storage as being non-volatile memory or specifically teach it as "highly tamper resistant". Non-volatile storage is old and well known in the art, therefore, it would have been obvious to one of ordinary skill in the art to use non-volatile storage as it is a matter of obvious design choice. Further, as Bishop, as discussed, teaches using the saved data for resolving disputes, it would have been obvious to one of ordinary skill in the art to make the memory tamper resistant to ensure it is accurate and therefore, useful for resolving disputes.

As to claim 25, accountable data is provided for service providers (col 1, lines 57-52). Bishop does teach using a communication network (col 12, 67- col 13, 2), therefore, it would have been obvious to one of ordinary skill in the art to use the Internet as it is a world-wide communication network and therefore, would increase the flexibility of the system.

As to claim 26, the system is designed to ensure the components' use is legitimate and cleared for public use (col 13, lines 21-34).

As to claim 27, gov't agencies have access to their own Registry and have encrypted codes and uses identity command strings (URLs) which are communicative (such as www.uspto.gov communicates that it is the website of the US Patent and Trademark Office), and is accessible by the public, PINs are required to access any system that only allows authorized access.

Note: The language of claim 27 does not make clear what relation this has with the system as claimed.

As to claim 28, stolen property registries are old and well known, thereby meeting the limitations as claimed.

Note: As in the case of claim 27, the claim does not have a limitation that relates to the invention of the previous claims.

As to claim 29, there is a registry on the Web that will support any and all payment industry software (such as a bank web site).

Note: As in the case of claims 27 and 28, the claim does not have a limitation that relates to the invention of the previous claims. The examiner will note that Bishop teaches a registry for the vehicle that is used by the payment industry (lender) and gov't agencies (law enforcement).

As to claim 30, Bishop does not specifically teach a PIN for accessing the system, however, a PIN for accessing a system is old and well known in the art, therefore, it would have been obvious to one of ordinary skill in the art to require a PIN for access to restrict access to authorized users.

As to claim 31, Bishop teaches the system as being inoperable without receiving a signal (col 13, lines 25-32).

As to claim 33, Bishop teaches educational programming (information being inherently educational, col 1, lines 60-62).

As to claim 34, any system can be converted to use any protocols, there being no structure to preclude such an action.

As to claim 35, Bishop does not teach a "write-one time memory storage" to track and identify tampering. Bishop does teach using the system for resolving disputed (col 16, lines 40-48), therefore, it would have been obvious to one of ordinary skill in the art to modify the system as taught by Bishop with a write-one-time memory and tampering tracking and identification so as to ensure the data is correct and therefore, useful for resolving a dispute.

As to claim 75, as Bishop uses a computer, it inherently uses a computer chip, thereby meeting the limitations as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Fisher

Patent Examiner GAU 3629

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10/1/07